

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

BRIAN A. YARBROUGH,

Plaintiff,

v.

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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No. 4:10CV2 TIA

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Motion for Attorney's Fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. The parties consented to the jurisdiction of undersigned pursuant to 28 U.S.C. § 636(c).

On March 31, 2011, the undersigned reversed the Commissioner's decision and remanded Plaintiff's case to the Commissioner for further proceedings. Plaintiff now seeks attorney's fees in the amount of \$5,958.48, which represents 33.0 hours of attorney work at the rate of \$180.56 per hour. In EAJA actions, the district court has the authority to award reasonable and necessary expenses associated with adjudicating a claim for social security benefits. Kelly v. Bowen, 862 F.2d 1333, 1335 (8th Cir. 1988).

In the instant case, Defendant has filed a response stating that the parties have agreed to an award of EAJA fees of \$5,500.00. However, as stated by Defendant, EAJA fees are payable to the Plaintiff and may be offset to satisfy any pre-existing debt owed to the United States. Astrue v. Ratliff, ___ U.S. ___, 130 S. Ct. 2521, 2527 (2010). The undersigned thus finds that Defendant should first verify whether the Plaintiff owes a debt to the United States. If such debt is owed,

Defendant shall offset the amount and pay the remaining balance to the Plaintiff. If the Plaintiff does not owe any debt, Defendant shall make the fee payable to Plaintiff's attorney based upon the Fee Agreement and Assignment -- Federal Court signed by the Plaintiff. Whether made payable to the Plaintiff or to his attorney, the fee shall be mailed to Plaintiff's attorney: David Camp, 230 S. Bemiston Ave., Suite 810, St. Louis, MO 63105. An appropriate Judgment will accompany this Memorandum and Order.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Attorney's Fees pursuant to the Equal Access to Justice Act [Doc. #20] is **GRANTED**, in part, consistent with the Memorandum and Order.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

Dated this 14th day of September, 2011.